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Attorneys for Debtors

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

Debtor.

Case No. BK-S-06-10725 LBR

Chapter 11

**MOTION FOR ORDER AUTHORIZING THE
RETURN TO INVESTORS OF CERTAIN
ESCROWED FUNDS INTENDED FOR THE
BUNDY CANYON PROJECT**

Hearing Date: OST PENDING
Hearing Time: OST PENDING

USA Commercial Mortgage Company (“USACM”), the chapter 11 debtor in the above-captioned bankruptcy case, hereby moves this Court for authority to return to investors \$8.9 million in funds that are being held by a title company in an escrow account. In support of this

1 Motion, USACM represents as follows.

2 **POINTS AND AUTHORITIES**

3 **Facts**

4 1. On April 13, 2006 (the "Petition Date"), USACM and certain of its affiliates
5 (collectively, the "Debtors") filed petitions for relief under chapter 11 of the Bankruptcy Code.

6 2. Shortly before the Petition Date, USACM, acting as a mortgage broker, raised \$8.9
7 million from 117 investors (the "Investors") in amounts ranging from \$50,000 to \$300,000. The
8 \$8.9 million, which was deposited in a USACM bank account referred to as the "Investors Trust"
9 account on various dates from March 27, 2006 through April 6, 2006, was intended to be invested
10 as a secured loan to Bundy Canyon Land Development, LLC (the "Borrower") for a real estate
11 project hereinafter referred to as the "Bundy Canyon Project" in Riverside County, California. A
12 schedule of the Investors and the amounts invested is attached hereto as Exhibit A.

13 3. On April 6, 2006, the \$8.9 million deposited with USACM from the Investors was
14 transmitted by wire transfer from USACM's "Investors Trust" account to an escrow account of
15 Orange Coast Title Company (the "Title Company") in San Bernardino, California (the "Escrow
16 Account"). A copy of the wire transfer report is attached hereto as Exhibit B.

17 4. On and after the Petition Date, the \$8.9 million raised from the Investors has
18 remained in the Escrow Account. Since the Petition Date, USACM, through its court-approved
19 Chief Restructuring Officer, Thomas Allison, has determined that the Borrower is approximately
20 70% owned and/or controlled, directly or indirectly, by two former officers and principals of
21 USACM, and that it would be in the best interest of the Debtors not to complete the loan
22 transaction and not to release the \$8.9 million to the Borrower.

23 5. The Nevada Mortgage Lending Division ("MLD"), a state regulatory body within
24 the Nevada Department of Business & Industry, has requested that USACM immediately return
25 the \$8.9 million in the Escrow Account to the Investors. USACM believes that because the funds
26 in the Escrow Account are directly traceable to the amounts invested by the Investors shortly
27 before the Petition Date, from March 27, 2006 through April 6, 2006, and because USACM has
28 determined not to fund the \$8.9 million loan to the Borrower, a return of the funds in the Escrow

Account to the Investors is appropriate.

Memorandum of Law

Nevada law requires that funds received by a mortgage broker from investors to acquire ownership or a beneficial interest in a loan secured by real estate must deposit the funds in: (a) a financial institution and be kept separate from money belonging to the mortgage broker, or (b) an escrow account controlled by an independent party. Nev. Rev. Stat. 645B.175(1). In this case, USACM, apparently, followed this rule. Therefore, the funds in the Escrow Account at the Title Company are directly traceable to specific investors. These funds are not property of the bankruptcy estate.

In the event that a loan is not consummated, Nevada law requires the funds held in the Escrow Account to be returned to the investors. Nev. Rev. Stat. 645B.175(2)(b).

CONCLUSION

WHEREFORE, USACM respectfully requests that the Court enter an order authorizing the Title Company to release the \$8.9 million held in the Escrow Account to USACM, and authorizing USACM to promptly return the \$8.9 million to the 117 Investors and in the amounts set forth on Exhibit A.

Dated: April 27, 2006.

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EXHIBIT “A”

EXHIBIT "A"LENDERS

Bundy Canyon \$8,900,000

NAME	Amount
Anne E. Abrams Trustee of the Abrams Living Trust dtd 10/23/96	\$50,000.00
Adib M. Al-Awar & Ellen A. Al-Awar Trustees of the Al-Awar Living Trust dated 04/05/01	\$300,000.00
Steven K. Anderson Trustee of the Steven K. Anderson Family Trust dated 6/30/94	\$50,000.00
Lawrence J Aronson & Henrietta Aronson, husband & wife as joint tenants with rights of survivorship	\$100,000.00
Darlene Ashdown & Vincent N. Greene, husband & wife, as joint tenants with right of survivorship	\$100,000.00
B2PW, Oregon Partnership	\$50,000.00
Bernard D. Benz & Margaret W. Benz Trustees of The Benz Family Trust dated 7/14/95	\$50,000.00
William Chad Berry, a single man	\$100,000.00
William M. Bettencourt, Jr. and Joan E. Bettencourt, Trustees of the Bettencourt Family Living Trust dated 9/3/97	\$50,000.00
Jay Betz & Joy Betz Trustees of the Betz Family Trust	\$50,000.00
Gerald L. Bittner, Sr. DDS Inc Profit Sharing Plan & Trust dated 1/15/91	\$100,000.00
First Savings Bank Custodian For Albert Blumenthal IRA	\$50,000.00
James R. Bonfiglio & Donna M. Bonfiglio General Partners of the Broadwalk Investments Limited Partnership	\$100,000.00
Jeffrey D. Brick, A single man	\$50,000.00
Gary S. Brill Trustee of the Gary S. Brill Living Trust dated 9/21/83 as amended & restated on 3/20/88	\$100,000.00
Douglas L. Bronzie, an unmarried man	\$50,000.00
Forrest West Buck, Jr. & Mary Jean Nelson Buck, Trustees of the Buck Trust dated 7/13/95	\$50,000.00
Dennis G. Campton Trustee of the Dennis G. Campton, MD PSP dated 3/16/72	\$100,000.00
Peter W. Capone & Deidre D. Capone, husband & wife, as joint tenants with right of survivorship	\$50,000.00
First Savings Bank Custodian For Anthony Christian IRA	\$65,000.00
Vernon K. Chun & Kerri J. Chun Trustees of the Chun Living Trust dated 2/17/98	\$50,000.00
Stella P. Ciadella Trustee of the Ciadella Living Trust dated 2/8/99	\$150,000.00
Donald P. Clark Trustee of the Donald P. Clark Family Trust dated 10/25/94	\$100,000.00
Iris G. Corley Trustee of the Iris G. Corley Trust dated 9/19/84	\$50,000.00
Howard L. Craig & Frankye D. Craig Trustees of the Craig Living Trust dated 08/10/00	\$100,000.00
Frankye D. Craig, Trustee of the Craig Living Trust dated 08/10/00	\$50,000.00
Robert L. De Ruff Trustee of the De Ruff 1988 Trust dated 4/25/88	\$50,000.00
TGBA Properties	\$75,000.00
Anthony W. Desio and Delores J. Desio Foundation	\$50,000.00
Patricia Deverell, an unmarried woman	\$100,000.00
Robert Dubofsky, Trustee Dubofsky & Son Inc. Pension Plan and Trust Dtd 1/1/94	\$100,000.00
William Dupin & Penny Dupin, husband & wife, as joint tenants with right of survivorship	\$50,000.00

Bundy Canyon \$8,900,000

NAME	Amount
Raymond J. Eberlin & Karen Eberlin, husband & wife, as joint tenants with right of survivorship	\$250,000.00
Jonathan M. Eller & Carol A. Eller, husband & wife, as joint tenants with right of survivorship	\$50,000.00
Scott J. Elowitz, a married man dealing with his sole and separate property	\$50,000.00
Robert Essaff & Cindy H. Essaff Trustees of the Essaff Family Trust dated 6/18/02	\$100,000.00
Robert S. Feldman & Joan Feldman, Trustees of The Feldman Family Revocable Trust dated 6/29/99	\$100,000.00
Sterling Trust Company Custodian FBO Fiola Fernandes IRA	\$50,000.00
David Fossati, a single man	\$60,000.00
Dr. Stanley L. Goodman, MD, an unmarried man	\$50,000.00
Sandra D. Greenblatt and Michael A. Greenblatt, wife and husband, as joint tenants with the rights of survivorship	\$50,000.00
Joanne A. Halvorson, a married woman dealing with her sole & separate property	\$50,000.00
Roderick J. Harvey, Sr. and Pauline W. Harvey, Trustees of the Harvey Family Trust, dated 4/13/87	\$50,000.00
Franklin J. & Roxanne Havers, Trustees of the Havers Family Trust	\$50,000.00
Judith A. Heinbaugh, Trustee of the Judith Ann Heinbaugh Living Trust dated 4/25/96	\$75,000.00
Richard Heintzelman & Roberta Heintzelman, Trustees of the Heintzelman Rev Living Trust Dtd 8/15/94	\$50,000.00
Edward O. High, an unmarried man	\$50,000.00
James B. Hopper, a married man dealing with his sole & separate property	\$75,000.00
Dianne Humble, a single woman	\$50,000.00
Porter A. Hurt, a single man	\$100,000.00
Mary Jean Jellison, a married woman dealing with her sole & separate property	\$75,000.00
Janet P. Johnson & Charles E. Johnson Trustees of the Janet P. Johnson Living Trust dated 7/15/04	\$50,000.00
James E. Johnson a married man as his sole and separate property	\$50,000.00
Dennis M. Keegan and Gwen M. Keegan, husband and wife, as joint tenants with the right of survivorship	\$50,000.00
Mary Jane Kingman, a married woman dealing with her sole & separate property	\$140,000.00
David A. Kingman, a married man dealing with his sole and separate property Acct # 2	\$180,000.00
Norman Kiven, a married man dealing with his sole & separate property	\$50,000.00
Louise Alport Kolberg, trustee of the Louise Alport Kolberg Revocable Trust	\$50,000.00
Richard F. Kudrna Jr., a married man dealing with his sole and separate property	\$50,000.00
Jester, LP, a Nevada limited partnership	\$50,000.00
Marilyn Lee, Trustee of the Hock Yen Lee Marital QTIP Trust	\$50,000.00
Richard And Carol K. Leiby, Trustees The Leiby Family 1992 Trust Dtd 7/8/92	\$50,000.00
Stephen R. Lima and Paulette C. Lima, husband and wife, as joint tenants with the right of survivorship	\$100,000.00
First Regional Bank Custodian for Jeffrey Lipshitz IRA	\$100,000.00
James W. Magner, a married man & Joseph P. Magner, a married man, as joint tenants with right of survivorship	\$50,000.00
Mary Counsil Mayfield and Morris L. Mayfield, husband & wife, as joint tenants with right of survivorship	\$50,000.00
Bradford A. McMullin, a single man	\$100,000.00
Clifford J. Mehling II, Trustee of the Clifford J. Mehling II Trust dated 7/22/97	\$100,000.00
Gary I. Miller & Barbara L. Miller Trustees of the Gary I. & Barbara L. Miller Trust dated 08/13/87	\$50,000.00
Vito P. Minerva Trustee of the Minerva Family Trust dated 11/14/96	\$50,000.00
Monighetti, Inc., a Nevada corporation	\$50,000.00

Bundy Canyon \$8,900,000

NAME	Amount
William Richard Moreno, a married man as his sole & separate property	\$50,000.00
Deborah H. Nogaim, an unmarried woman	\$50,000.00
Aaron Nordwind and Paula Nordwind Trustees of The Paula Nordwind 2001 Revocable Trust U/A dated 12/13/01	\$50,000.00
Aaron I. Osherow, Trustee of the Osherow Trust dated 9/11/89	\$50,000.00
Jean A. Ourdoune Trustee of the Ourdoune Living Trust dated 1/16/98	\$50,000.00
Walter Warren Owens, an unmarried man	\$50,000.00
David A. Palmer Trustee UA 2/13/90 for the benefit of The Palmer Family Trust	\$50,000.00
Salvatore J. Palmisano and Maryann Palmisano, husband and wife as joint tenants with rights of survivorship	\$100,000.00
Charlette A. Payne, a widow	\$100,000.00
First Savings Bank Custodian For Karen L. Pearl IRA	\$50,000.00
Shimon Peress & Hannah Peress Trustees of the Shimon Peress & Hannah K. Peress Trust dated 4/17/01	\$50,000.00
Patricia L. Port Trustee of the Patricia L. Port Trust dated 1/28/04	\$50,000.00
Morton J. Port, a married man dealing with his sole & separate property	\$50,000.00
Lore Probst, Trustee of the LP Trust Dtd 3/1/06	\$70,000.00
Justin D. Rafferty & Patricia L. Lewis Trustees of the The Lewis/Rafferty Family Trust dated 6/25/97	\$75,000.00
Richard M. Raker, Trustee of the Richard M. Raker Living Trust dated 3/18/98	\$75,000.00
First Savings Bank Custodian For Thomas Rehn IRA	\$80,000.00
Stevan S. Robertson Jr. and Marsha T. Robertson, husband and wife, as joint tenants with the right of survivorship	\$50,000.00
Nancy E. Rommel Trustee of the Rommel Family Trust dated 10/6/78	\$200,000.00
Craig L. Rommel & Ann Marie Rommel, husband & wife, as joint tenants with right of survivorship	\$100,000.00
Grable B. Ronning, an unmarried woman	\$50,000.00
Grable B. Ronning Trustee of the Bosworth 1988 Family Trust for the benefit of Eric Ronning dated 11/4/88	\$50,000.00
Crosbie B. Ronning, a single woman	\$50,000.00
Ingrid A. Rutherford, Trustee of the Ingrid A. Rutherford Family Trust dated 7/8/99	\$50,000.00
First Savings Bank Custodian for Gerry Schloss IRA	\$50,000.00
Marc D. & Jane R. Schorr Trustees Revocable Living Trust Dtd 12/22/98	\$100,000.00
Robert G. Sikorski	\$50,000.00
Albert V. Siniscal Trustee for the benefit of Albert V. Siniscal Living Trust	\$50,000.00
Wormack E Smith III & Christina C Smith, husband & wife, as joint tenants with right of survivorship	\$50,000.00
M. L. Smith and Pauline Smith, Trustees of the M. L. and Pauline Smith Family Living Trust	\$150,000.00
David A. Souza & Elizabeth M. Souza, husband & wife, as joint tenants with right of survivorship	\$200,000.00
Nicholas A. Steinmetz & Cynthia M. Steinmetz Trustees of the 2001 Steinmetz Family Trust	\$50,000.00
Gloria M. Swett, a widow	\$50,000.00
Chi Lap Tai & Jenny H. Lo, husband and wife as joint tenants with rights of survivorship	\$50,000.00
Sara's Hope "It's A Wonderful World" Charitable Foundation, a California Public Benefit Corporation	\$100,000.00
Kimberly Taylor, an unmarried woman	\$50,000.00
Jack S. Tiano, Trustee for An Accountancy Corporation Profit Sharing Plan & Trust dated 02/28/1997	\$75,000.00

Bundy Canyon \$8,900,000

NAME	Amount
Gary E. Tucker & Linda L. Tucker, husband & wife, as joint tenants with right of survivorship	\$250,000.00
Noemi N. Turok, a widow	\$100,000.00
Lloyd F. Van Sickle Trustee of The Van Sickle Family Trust dated 5/20/99	\$150,000.00
Marsha G. Vieira, an unmarried woman	\$50,000.00
Melody J. Violet, an unmarried woman	\$50,000.00
Frank Weinman Trustee of the Weinman Family Trust dated 9/6/96	\$100,000.00
Larry G. Williams and Mary Lou Williams, husband and wife, as Joint Tenants with Right of Survivorship	\$80,000.00
David W. Womack & Nellene Womack, husband & wife, as joint tenants with right of survivorship	\$50,000.00
Dennis G. Yoder & Janice L. Yoder Trustees of the Yoder Living Trust dated 10/11/96	\$100,000.00
<i>Exhibit 'A' for 117 people with a total \$ value of</i>	\$8,900,000.00

EXHIBIT “B”



Apr 06, 2006 02:16:56 PM ET

Customer ID: USA00121

Operator ID: CONNA001

Commercial Electronic OfficeSM

USA COMMERCIAL MORTGAGE CO.

Detail Wire Transfer Activity Report

From 04/06/2006 Through 04/06/2006

Wire Transfer

Wire Transfer Information contained in this Report reflect transaction(s) initiated within CEOSM

Domestic, International, Book Transfer and Drawdown: Detail Wire Transfer Activity

Debit Currency: USD

Debit Bank Name: WELLS FARGO BANK NEVADA, N.A.

Debit Account Name: Investors Trust

Account Number: 465657146

Debit Amount: 8,900,000.00 USD

Value Date: 04/06/2006

Execution Date: 04/06/2006

Template Name:

Freeform

Type: Domestic

CEO Tracking Number: 000769

Fed/SWIFT. Confirmation Number: 001166

Status: Confirmed

Beneficiary Account Information:

Account Number: 245111495

Account Name: Orange Coast Title Co

Beneficiary Bank Information:

Bank ID: 122234149

Bank Name: Citizens Business Bank

Bank Address: 301 Vanderbilt Way
San Bernardino, CA 92408

Form of Notification: None

Originator's Ref Number: Data Not Provided

Originator to Beneficiary Information:

FBO Bundy Canyon 8.9

esc # 24201 - LW

attn Leslie Walker

Originator Information:

Name: USA COMMERCIAL MORTGAGE CO.

Address: 4484 South Pecos Road

Las Vegas, NV 89121 US

Intermediary Bank Information:

Data Not Provided

Audit Trail Information:

Created By: HESSV001 April 06, 2006 12:15:48
PM ET.Verified By: CONNA001 April 06, 2006 12:29:22
PM ET.

Rejected By: N/A

Last Modified By: HESSV001 April 06, 2006 12:15:48
PM ET.

Verify-2 By:

Total By Status

	Total Debits USD	Total Credits USD	Total Transactions
Status: Confirmed	8,900,000.00	0.00	1
Grand Total:	8,900,000.00	0.00	1

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